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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,334

06/09/2006

Tomoya Sugita

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EXAMINER

PETKOVSEK, DANIEL

ART UNIT

PAPER NUMBER

2874

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/582,334

Examiner

DANIEL PETKOVSEK

Applicant(s)

SUGITA ET AL.

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on April 29, 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.



Continuation of 5 Other: The remarks section filed April 29, 2008 is Non-Compliant, in particular on pages 7 and 8. In Applicant's "Remarks" section, and in particular paragraphs (4) and (5), Applicant does not clearly and distinctly assert how new amended claims 1 and 17 overcome the prior art to either Suzuki '404 or Hooker '463. Applicant solely states that, "since the Office Action did not reject claim 2 over Suzuki '404 (or Hooker '463), and thus, amended claims 1 and 17 are patentable over Suzuki '404 (or Hooker '463)". This argument is not fully responsive, and further not persuasive. First, Applicant does not explicitly state what part(s) of claims 1 or 17 that Suzuki '404 (or Hooker '463) fails to teach. Second, Applicant is not clear about how this (if any) limitation patentably distinguishes claims 1 or 17 from prior art of record. Upon a cursory review of new independent claim 1 and 17, it appears that these claims do not patentably distinguish from either the Suzuki '404 or Hooker '463 reference.

Applicant's arguments do not comply with 37 CFR 1.111(c ) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. The lack of any specific argument pointing out the novelty of the current invention in view of the cited prior art may be held to be not fully responsive and a time period set to furnish a proper reply if the statutory period has expired or almost expired (MPEP 714.03).

/Daniel Petkovsek/  
Patent Examiner, Art Unit 2874  
August 12, 2008